

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO.: 22-cv-22538-ALTMAN/REID

DOMINIK KARNAS, *et al.*, on behalf  
of himself and others similarly situated,  
Plaintiffs,

v.

MARK CUBAN, *et al.*,  
Defendants.

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**PLAINTIFFS' RESPONSE TO DEFENDANTS MARK CUBAN'S AND DALLAS  
BASKETBALL LIMITED D/B/A DALLAS MAVERICKS' NOTICE OF  
SUPPLEMENTAL AUTHORITY REGARDING DEFENDANTS' MOTION TO  
EXCLUDE EXPERT REPORT AND TESTIMONY OF  
LEE REINERS [ECF NO. 306]**

Pursuant to S.D. Fla. Local Rule 7.8, Plaintiffs' respond to Defendants' Notice of Supplemental Authority [ECF No. 306] concerning a recent decision (the "Decision," attached as Ex. 1) entered by the Honorable Federico A. Moreno of the Southern District of Florida in *Harper v. O'Neal et al.*, 23- 21912-CIV-MORENO ("*Harper*"), ECF No. 92 (S.D. Fla. Aug. 16, 2024), as follows:

Defendants' reliance on Judge Moreno's order and their characterization of its relevance to this matter is misleading. Judge Moreno's ruling specifically addressed the propriety of attaching an expert report to a complaint, a procedural context fundamentally different from the current situation where the expert report by Professor Reiners is offered in support of a motion for class certification. The context in which the report is utilized is critical, as Judge Moreno's decision did not pertain to the admissibility or use of an expert report in support of a class certification motion.

Judge Moreno's ruling in *Harper* does not categorically exclude expert opinions on legal matters but instead concerns the appropriateness of including such a report as part of the initial pleading. Notably, the order struck portions of the report attached to the complaint that opined on whether certain assets were unregistered investment contracts, stating that "the only legal expert will

be the Court, with the assistance of the excellent attorney arguments on appropriate statutory, and case law,” Order at 1. However, Judge Moreno did not strike the entire report, leaving open the possibility that portions related to governance or non-fungible tokens “may become relevant at later stages of the proceeding.” This further underscores that the context in which the report is introduced is determinative of its admissibility and relevance.

In this case, the Reiners report is not being used as an attachment to a complaint but as a substantive piece of evidence in support of class certification, a context in which courts routinely rely on expert analysis to understand complex factual and legal issues. Defendants’ attempt to extend Judge Moreno’s reasoning to this entirely different procedural posture is therefore inapposite.

Thus, Plaintiffs respectfully submit the Court should reject Defendants’ invitation to exclude Professor Reiners’ report based on Judge Moreno’s Order and instead analyze Professor Reiners’ opinions, utilizing those that are helpful to aid in the Court’s analysis.

Dated: August 21, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the forgoing was filed on August 21, 2024, via the Court's CM/ECF system, which will send notification of such filing to all attorneys of record.

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